



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE GENERAL COUNSEL

May 27, 2020

Barbara R. Snyder, President
Office of the President
Adelbert Hall 216
10900 Euclid Avenue
Case Western Reserve University
Cleveland, OH 44106-7001

Re: Notice of 20 U.S.C. § 1011f Investigation and Record Request/Case Western Reserve University

Dear President Snyder:

Section 117 of the Higher Education Act of 1965 (20 U.S.C. § 1011f) requires institutions of higher education (IHEs), including Case Western Reserve University (CWRU), to report all gifts, contracts, and/or restricted and conditional gifts or contracts from or with a foreign source to the U.S. Department of Education ("Department"). These reports are posted at <https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts>.

CWRU is a significant recipient of American taxpayer dollars, including more than \$412,201,774 in NIH awards from 2018-2020.¹ Notably, CWRU's School of Medicine is currently one of the top 20 U.S. medical school NIH grant recipients.² On May 13, 2020, Dr. Qing Wang was arrested and charged by federal criminal complaint with false claims and wire fraud relating to more than \$3.6 million in federal grant funding that he and his research group at CWRU's Cleveland Clinic Foundation (CCF) received from the National Institutes of Health (NIH). First joining CCF in 1997, Dr. Wang was a prominent researcher (professor of molecular

¹ See <https://www.report.nih.gov/award/index.cfm?ot=MS&fy=2020&state=&ic=&fm=&orgid=218601&distr=&rfa=&om=n&pid=&view=state>,
<https://www.report.nih.gov/award/index.cfm?ot=MS&fy=2019&state=&ic=&fm=&orgid=218601&distr=&rfa=&om=n&pid=&view=state>,
<https://www.report.nih.gov/award/index.cfm?ot=MS&fy=2018&state=&ic=&fm=&orgid=218601&distr=&rfa=&om=n&pid=&view=state>.

² See <https://case.edu/medicine/about/newsroom/our-latest-news/school-medicine-soars-top-20-ranking-nih-funding-2019>.

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medicine) at CCF until a recent NIH and Department of Justice investigation³ revealed his concurrent position as Dean of the College of Life Sciences and Technology at Huazhong University of Science and Technology (HUST) in the People's Republic of China (PRC) and his participation in the PRC's Thousand Talent's Program (TTP) (an ongoing subterfuge of the PRC to recruit individuals with access to foreign technology and intellectual property). See <https://www.justice.gov/opa/pr/former-cleveland-clinic-employee-and-chinese-thousand-talents-participant-arrested-wire-fraud>.

DOJ's investigation found that at the same time Dr. Wang was applying for and receiving NIH grants in his capacity as faculty at CCF, he also received undisclosed funding from the PRC's National Natural Science Foundation of China. See <https://www.healthleadersmedia.com/ex-cleveland-clinic-researcher-arrested-charged-wire-fraud>. In his TTP recruiting role, the PRC paid for Dr. Wang's travel to China and a three-bedroom apartment on the HUST campus while Dr. Wang secured PRC funds for "recruits" at Harvard Medical School, the University of California, and the University of Texas (pursuant to Dr. Wang's efforts on behalf of the PRC, those recruits received between \$200,000 and \$300,000 in financial compensation).⁴

CWRU has an "Office of Global Strategy" which has published a "Plan for Internationalization" which includes two phases for transitioning CWRU to a massive international presence and creating "Major International Partnerships."⁵ CWRU's plan for international operations appears to be well underway. In fact, CWRU published that it has "200 international agreements in more than 40 different countries." See <https://case.edu/international/global-strategy/major-international-partnerships>. Some of CWRU's international efforts include recruiting students from the PRC and setting up partnerships in the PRC.⁶ In an August 2018 interview with the PRC's state-run news agency, Xinhua, you indicated that CWRU has "been very fortunate to have a lot of help as we forge partnerships in China." Xinhua reported that while "CWRU does not have any immediate plans to open a campus in China...it has been working on many joint research projects, and faculty and student exchanges [sic] programs with some of the universities in China." See <http://en.people.cn/n3/2018/0827/c90000-9494467.html>. CWRU's School of Dental Medicine, "in a move to expand its international presence and influence...signed a six-year agreement to train junior faculty from Qassim University" in Saudi Arabia in 2016. See <https://thedaily.case.edu/dental-school-strikes-agreement-to-train-faculty-of-saudi-arabian-university/>. A similar agreement was also signed with an Egyptian university. See

³ Dr. Wang, while a faculty member at CCF, is alleged to have engaged in a pervasive pattern of fraud by deliberately failing to disclose his PRC funding and positions which overlapped with disclosure obligations to the NIH as part of the grant application process. See <https://www.washingtonexaminer.com/news/doj-escalates-chinese-thousand-talents-crackdown-with-arrest-of-cleveland-clinic-researcher>.

⁴ See *id.*

⁵ See <https://case.edu/international/global-strategy/major-international-partnerships>.

⁶ See "The China-to-Case Western Reserve University Pipeline is Flowing at Full Speed." <https://www.crainscleveland.com/scott-suttell-blog/china-case-western-reserve-university-pipeline-flowing-full-speed>.

<https://case.edu/think/spring2016/dentalschool-international-impact.html#.XsWVqWi6OUk>.

CWRU's School of Law, pursuant to an agreement with Saudi Arabia's Naif Arab University for Security Sciences (NAUSS), now offers a Master of Arts in Financial Integrity degree program in Riyadh, Saudi Arabia. See <https://case.edu/international/global-strategy/major-international-partnerships>.

Despite CWRU's very extensive entanglement with foreign sources here in the U.S. and abroad, a review of the Department's records reveals significant disclosure deficiencies. Until January 2020, CWRU failed to make a single foreign source disclosure to the Department over a more than 12-year period (since January 2, 2008). During the past five months, CWRU has retroactively filed disclosure reports indicating receipt of over \$53 million in qualifying foreign source gifts and contracts for the period January 2013 through the present. CWRU now reports only one qualifying foreign source transaction during the entire period from January 1, 2008, through January 13, 2013. The Department views CWRU's reports as untimely and incomplete. The foreign source reporting obligation provides critical transparency to American taxpayers and policymakers. Failure to timely provide accurate disclosures could result in: (a) unintentional transfers of critical research data with multiple applications to hostile foreign entities, (b) loss of public trust in university research enterprises, (c) diversions of proprietary and pre-publication research data to foreign entities, and (d) inaccurately informed decisions by policy makers about the use of taxpayer funding.

The PRC has been clear about its intent to acquire high-level scientific foreign talent and knowledge in furtherance of China's high-priority scientific development, national security, and economic prosperity through its "Chinese Talent Programs" (CTP) and other initiatives, both lawful and illicit. One such program, the TTP, involves the PRC and its agencies and agents offering salaries, research funding, laboratory space, honorary titles, and other incentives in exchange for the commitment of researchers in transmitting and sharing highly-specialized research and knowledge with the PRC. It is the TTP in which CWRU's Dr. Wang was a recruiter. Multiple federal agencies, including the NIH, Federal Bureau of Investigation (FBI), and Department of Energy (DOE), have publicly warned about the potential damage to American national security interests presented by CTPs.⁷

⁷ NIH has clearly and repeatedly warned of the insidious threat of TTP to American research institutions, including colleges and universities. See <https://nihrecord.nih.gov/2019/10/04/nih-investigates-foreign-influence-us-grantee-institutions> and <https://www.sciencemag.org/news/2018/08/nih-investigating-whether-us-scientists-are-sharing-ideas-foreign-governments>. The NIH also informed NIH grantees, of which CWRU is one, of the ongoing threat to biomedical research from foreign sources and the obligation of universities to timely report funding by foreign entities. The FBI has, likewise, warned of the TTP's threat to American security interests through research developed by taxpayer-funded American universities. See <https://www.fbi.gov/news/testimony/securing-the-us-research-enterprise-from-chinas-talent-recruitment-plans-111919>; <https://www.hsgac.senate.gov/imo/media/doc/Brown%20Testimony.pdf>. The Department of

Section 117(f), 20 U.S.C. § 1011f(f), provides that whenever it appears an institution has failed to comply with the law, the Secretary of Education may request the Attorney General commence an enforcement action to compel compliance and to recover the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement. To meet the Department's statutory duty to verify compliance prior to any potential referral for enforcement action by the Attorney General, the Department is continuing its administrative investigation of CWRU and requests that you produce the following within forty-five (45) calendar days:

1. All CWRU records of, regarding, or referencing gifts, contracts, and/or restricted or conditional gifts or contracts from or with a foreign source or foreign sources to CWRU. This includes, but is not limited to, true copies of qualifying pledges, donations, contributions, contracts, and/or agreements. Our request includes all supporting and related communications and metadata regarding these records. The time frame for this request is January 1, 2008, through the present.
2. A list of all gifts, contracts, and/or restricted or conditional gifts or contracts from or with a foreign source that were not contemporaneously reported to the Department by CWRU between January 1, 2008 and the present. For each such gift, contract, and/or restricted or conditional gift or contract, please (a) list the name and address of the foreign source; (b) list the CWRU person(s) who solicited, negotiated, or benefited from each such gift, contract, and/or conditional gift or contract; and (c) explain in a detailed narrative why CWRU failed to lawfully disclose the gift, contract, and/or conditional gift or contract.
3. All records of, regarding, or referencing gifts, contracts, and/or restricted or conditional gifts or contracts from or with: (i) The government of the PRC and/or its agencies, departments, agents, employees and instrumentalities (whether domiciled in China, the United States, or elsewhere); the Central Committee of the Communist Party of China and/or its agents, employees, and instrumentalities (whether domiciled in China, the United States, or elsewhere); the People's Liberation Army and/or its agents, employees, and instrumentalities (whether domiciled in China, the United States, or elsewhere); Huawei Technologies Co. Ltd., Huawei Technologies USA, Inc., ZTE Corp and/or their agents, employees, subsidiaries, and instrumentalities (whether domiciled in China, the United States, or elsewhere); and any China-based university or educational entity, and/or their agents, employees, and instrumentalities (whether domiciled in China, the United States, or elsewhere). (ii) The government of Saudi Arabia and/or its agents, employees, and instrumentalities (whether domiciled in Saudi Arabia, the United States, or elsewhere); and any Saudi Arabian university or educational entity and/or its agents, employees, and

Energy, similarly, has warned of and acted to block TTP-based efforts to access technology critical to the security of the United States. See https://www.directives.doe.gov/directives-documents/400-series/0486.1-border/@_images/file; <https://phys.org/news/2019-06-energy-dept-blocks-china-thousand.html>.

instrumentalities (whether domiciled in Saudi Arabia, the United States, or elsewhere). (iii) The government of Egypt, its agents, employees, and instrumentalities (whether domiciled in Egypt, the United States, or elsewhere); and any Egyptian university or educational entity and/or its agents, employees, and instrumentalities (whether domiciled in Egypt, the United States, or elsewhere). (iv) The government of the Islamic Republic of Iran, and/or its agents, employees, and instrumentalities (whether domiciled in Iran, the United States, or elsewhere); the Islamic Revolutionary Guard Corps and/or its agents, employees, and instrumentalities (whether domiciled in Iran, the United States, or elsewhere); any Iranian foundation (e.g. the “Foundation for the Oppressed”), corporation, or legal entity and/or its agents, employees, subsidiaries, and instrumentalities (whether domiciled in Iran, the United States, or elsewhere); and any Iranian university or educational entity and/or its agents, employees, and instrumentalities (whether domiciled in Iran, the United States, or elsewhere). For each such gift, contract, and/or restricted or conditional gift or contract, specify all CWRU person(s) (e.g. principal investigator, student, faculty member, employee, foundation, department) who were the object or beneficiaries thereof. The time frame for this request is January 1, 2008, through the present.

4. A complete list of any current or former CWRU faculty and staff, whether paid or unpaid, (including full and part time employees and contractors) involved in Chinese talent-recruitment and related programs (including TTP) from January 1, 2008, through the present. Provided contact information should include names, position(s) held, email addresses, mailing addresses, and phone numbers.
5. Identification of CWRU administrators or other personnel with responsibility for and/or oversight of faculty and staff involved in Chinese talent-recruitment programs (including TTP) from January 1, 2008, through the present. Provided contact information should include names, specific responsibilities, position(s) held, email addresses, mailing addresses, and phone numbers.
6. Identification of all known talent recruitment agencies, agents, and/or representatives who facilitated and/or supervised CWRU faculty and/or staff who were engaged in Chinese talent-recruitment programs (including TTP) from January 1, 2008, through the present. Provided contact information should include names, titles, apparent functions, email addresses, mailing addresses, and phone numbers.
7. All records of, regarding, or referencing communications concerning Chinese talent-recruitment programs (including TTP) and/or the involvement of CWRU faculty, staff, and students in Chinese talent-recruitment programs, from January 1, 2008, through the present.
8. All documents, including all written records, agreements, contracts, and modifications of contracts, evidencing agreements or consideration of agreements between CWRU, its faculty, staff, and administrators, and Chinese talent-recruitment program (including TTP) agencies or agents.

9. All records of CWRU's compliance with U.S. government requirements under Executive Order 13224 and related legal authorities, and under all relevant U.S. Department of the Treasury Office of Foreign Assets Control (OFAC) laws, regulations, and guidance related, *inter alia*, to Iran.

The Department requests that CWRU's production of records in response to this request utilize the following procedures:

- Searches for records in electronic form should include searches of all relevant mobile devices, hard drives, network drives, offline electronic folders, thumb drives, removable drives, records stored in the cloud, and archive files, including, but not limited to, backup tapes. Do not time stamp or modify the content, the create date, or the last date modified of any record and do not scrub any metadata.
- All email searches should be conducted by the agency's information technology department, or its equivalent, and not by the individuals whose records are being searched. Please provide the name and contact information of the individual(s) who conducted the search, as well as an explanation of how the search was conducted.
- To the extent practicable, please produce all records in a searchable electronic format and not hardcopies. Electronic records should be produced in native format. For e-mails, please place responses in one .pst file per employee. All other loose electronic files should be produced in their native format. To the extent practicable, all files should be produced in a manner that facilitates quick and accurate custodial assignment. Should CWRU have any questions about the method or format of production please contact the undersigned.

As used in this Notice of Investigation and Information Request:

"Agencies" include any organizations or entities providing services or performing functions or tasks on behalf of another organization, entity, or individual.

"Agent" has its plain and ordinary meaning, indicating that a person, organization, or entity, is acting on behalf of another person, organization, or entity, whether that agency is disclosed or undisclosed.

"Contract" has the meaning given at 20 U.S.C. § 1011f(h)(1).

"Faculty" refers to all teaching positions at the university (including professors of all ranks, teachers, lecturers, and/or researchers whether in a classroom, laboratory, or other educational environment – whether physically or electronically present).

"Foreign source" has the meaning given at 20 U.S.C. § 1011f(h)(2).

“Gift” has the meaning given at 20 U.S.C. § 1011f(h)(3).

“Institution” has the meaning given at 20 U.S.C. § 1011f(h)(4) and for the purposes of this request includes CWRU, its employees, tenured faculty, non-tenured faculty and lecturers, researchers, fellows, graduate students, and all affiliated entities operating substantially under its control or for its benefit (*e.g.*, centers, schools, boards, foundations, research facilities, laboratories, branches, partnerships, or non-profit organizations).

“Record” means all recorded information, regardless of form or characteristics, made or received, and including metadata, such as email and other electronic communication, word processing documents, PDF documents, animations (including PowerPoint™ and other similar programs) spreadsheets, databases, calendars, telephone logs, contact manager information, Internet usage files, network access information, writings, drawings, graphs, charts, photographs, sound recordings, images, financial statements, checks, wire transfers, accounts, ledgers, facsimiles, texts, animations, voicemail files, data generated by calendaring, task management and personal information management (PIM) software (such as Microsoft Outlook), data created with the use of personal data assistants (PDAs), data created with the use of document management software, data created with the use of paper and electronic mail logging and routing software, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form. The term “recorded information” also includes all traditional forms of records, regardless of physical form or characteristics.

“Restricted or conditional gift or contract” has the meaning given at 20 U.S.C. § 1011f(h)(5).

“Staff” refers to all members of the university involved in administration of the university and its obligations and commitments (including deans of all ranks, administration officials, and support personnel).

If CWRU asserts attorney-client or attorney-work product privilege for a given record, then it must prepare and submit a privilege log expressly identifying each such record and describing it so the Department may assess the claim’s validity. Please note that no other privileges apply here. CWRU’s record and data preservation obligations are outlined at Exhibit A.

The Department recognizes that the impact of the Coronavirus on all IHE operations is profound and ongoing. Nonetheless, the possible national security implications of undisclosed gifts, contracts, and/or restricted and conditional gifts or contracts from or with foreign sources is a critical matter and CWRU’s statutory reporting obligation is long-standing. Therefore, your timely response to this Notice of Investigation and Record Request is essential.

Barbara R. Snyder, President
Office of the President
May 27, 2020
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This investigation is being directed by the Department's Office of General Counsel with investigative support from Federal Student Aid. To arrange for the transmission of the requested information or should you have any other questions, please contact:

Paul R. Moore, Esq.
Office of the General Counsel
U.S. Department of Education
400 Maryland Ave., S.W., Room 6E304
Washington, D.C. 20202
Paul.Moore@ed.gov

Sincerely yours,

Reed
Rubinstein

A red digital signature line is drawn over the name "Reed Rubinstein". To the right of the signature, the following text is displayed: "Digitally signed by Reed Rubinstein", "Date: 2020.05.27", and "17:17:45 -04'00'".

Digitally signed by
Reed Rubinstein
Date: 2020.05.27
17:17:45 -04'00'

Reed D. Rubinstein
Principal Deputy General Counsel delegated
the Authorities and Duties of the General Counsel

Enclosure (Exhibit A)

EXHIBIT A

RECORD PRESERVATION REQUIREMENTS

This investigation requires preservation of all information from your institution's computer systems, removable electronic media, filing systems, and other locations relating to the matters that are the subject of the Notice of Investigation. You should immediately preserve all data and information about the data (i.e., backup activity logs and document retention policies) relating to records maintained in the ordinary course of business and that are covered by the Notice of Investigation. Also, you should preserve information available on the following platforms, whether in your possession or the possession of a third party, such as an employee or outside contractor: databases, networks, computer systems, including legacy systems (hardware and software), servers, archives, backup or disaster recovery systems, tapes, discs, drives, cartridges and other storage media, laptops, personal computers, internet data, personal digital assistants, handheld wireless devices, mobile telephones, paging devices, and audio systems (including voicemail). You should also preserve all hard copies of records regardless of location.

The laws and rules prohibiting destruction of evidence apply to electronically stored information in the same manner that they apply to other evidence. Accordingly, you must take every reasonable step to preserve relevant records. "Reasonable steps" with respect to these records include:

- Notifying in writing all potential custodians and IT personnel who may have relevant records of their preservation obligations under this investigation.
- Discontinuing all data and document destruction policies.
- Preserving all metadata.
- Preserving relevant records and/or hardware unless an exact replica of the file (a mirror image) is made.
- Preserving passwords, decryption procedures (and accompany software), network access codes, ID names, manuals, tutorials, written instructions, decompression or reconstruction software.
- Maintaining all other pertinent information and tools needed to access, review, and reconstruct necessary to access, view, and/or reconstruct all requested or potentially relevant electronic data.

You have an obligation to preserve all digital or analog electronic files in electronic format, regardless of whether hard copies of the information exist, with all metadata. This includes preserving:

- Active data (i.e., data immediately and easily accessible today).
- Archived/journaled data (i.e., data residing on backup tapes or other storage media).
- Deleted data (i.e., data that has been deleted from a computer hard drive but is recoverable through computer forensic techniques).
- Legacy data (i.e., data created on old or obsolete hardware or software).